

1 Law Office of
2 **CARTER MOREY**
3 A Professional Corporation
4 110 South Church Avenue, Suite 2170
5 Tucson, Arizona 85701
6 (520) 792-4330
7 Telefax: (520) 623-9568

8 Carter Morey (State Bar 003734)
9 rec@cartermorey.com

10 Attorney for Plaintiffs

11 UNITED STATES DISTRICT COURT
12 DISTRICT OF ARIZONA

13 JONATHAN MARSHALL, individually)
14 and as the surviving son of MELISSA)
15 MARSHALL, deceased, and on behalf)
16 of NICHOLAS MARSHALL, surviving)
17 son, and RUTH JUNTILLA, surviving)
18 mother of MELISSA MARSHALL,)
19 deceased, and all other statutory)
20 beneficiaries of MELISSA)
21 MARSHALL, deceased,)

22 Plaintiff,

23 vs.

24 FIVE STAR QUALITY CARE AZ-LLC)
25 dba LA MESA REHABILITATION)
26 AND CARE CENTER; FSO, INC fka)
27 FIVE STAR QUALITY CARE, INC.)
28

Defendants.

NO. 2:15-CV-02082-PHX-DLR

FIRST AMENDED COMPLAINT

(Tort, Medical Negligence, Wrongful
Death)

Plaintiff alleges:

I.

Plaintiff JONATHAN MARSHALL is the surviving son of MELISSA MARSHALL and brings this action on his behalf and on behalf of NICHOLAS MARSHALL, surviving son and RUTH JUNTILLA, surviving mother of MELISSA MARSHALL, and all other statutory beneficiaries of MELISSA MARSHALL, pursuant to A.R.S. 12-611, et seq., to recover damages for the wrongful death of MELISSA MARSHALL.

II.

The events complained of herein occurred in Yuma County, Arizona, at La Mesa Rehabilitation and Care Center.

III.

Defendant FIVE STAR QUALITY CARE AZ-LLC dba LA MESA REHABILITATION AND CARE CENTER is ~~an Arizona corporation~~ a foreign limited liability corporation and each of its members are citizens of Massachusetts, doing business in Yuma County, Arizona, as a rehabilitation and care center, known as La Mesa Rehabilitation and Care Center which provides rehabilitation health care, and care services to the public and which provided rehabilitation health care and care services to decedent MELISSA MARSHALL at all times relevant hereto.

IV.

Defendant FSQ, INC. fka FIVE STAR QUALITY CARE, INC. is ~~an Arizona corporation~~ a Delaware corporation with its principal place of business in Massachusetts, doing business in Yuma County, Arizona, as a rehabilitation and care center, known as La Mesa Rehabilitation and Care Center which provides rehabilitation health care, and care services to the public and which provided rehabilitation health care and care services to decedent MELISSA MARSHALL at all times relevant hereto.

V.

At all times mentioned herein, Defendant FSQ, INC. fka FIVE STAR QUALITY CARE, INC. employed health care providers at La Mesa Rehabilitation and Care Center who were licensed to provide health care in the State of Arizona and who held themselves out to the decedent, MELISSA MARSHALL, the Plaintiff JONATHAN MARSHALL and the public as health care providers qualified and skilled in the practice of health care.

VI.

All Defendants were either agents, employees or principals of each other at all times relevant to the allegations in this Complaint and are vicariously liable and responsible for the conduct of one another under the principles of respondeat superior, ostensible agency, or otherwise.

VII.

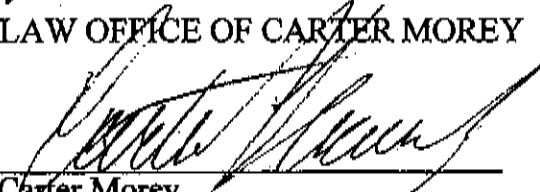
On or about October 23, 2014, and thereafter and at all times relevant thereto, Defendants, individually and by and through their agents and employees, including agents and employees not named in this Complaint, each and all of them, individually and in concert with one another, negligently, grossly negligently and with reckless disregard for the rights of others, including MELISSA MARSHALL, JONATHAN MARSHALL, NICHOLAS MARSHALL and RUTH JUNTILLA, failed to provide appropriate supervision, and care and responsibility to MELISSA MARSHALL; and Defendants had prior knowledge of MELISSA MARSHALL's previous wandering and leaving of the premises; and yet they negligently, grossly negligently and with reckless disregard for the rights of others, including MELISSA MARSHALL, JONATHAN MARSHALL, NICHOLAS MARSHALL and RUTH JUNTILLA, allowed MELISSA MARSHALL to leave the premises of La Mesa Rehabilitation and Care Center, where she was found at a Circle K where she had fallen in the parking lot and hit her head. Thereafter, MELISSA MARSHALL suffered head injuries and brain damage as the result of the negligent supervision, care and responsibility of Defendants. As a result of Defendants' conduct and grossly negligent supervision, care and responsibility, MELISSA MARSHALL passed away on November 5, 2014.

As a result of the grossly negligent and reckless conduct of Defendants, and each of them, as set forth above, Plaintiff JONATHAN MARSHALL has lost his mother, NICHOLAS MARSHALL has lost his mother, and RUTH JUNTILLA has lost her daughter, and each has suffered and will continue to suffer in the future as a result of the death of MELISSA MARSHALL: a) loss of love, affection, companionship, care, protection and guidance; b) pain, grief, sorrow, anguish, stress, shock and mental suffering; and c) along with other pecuniary and non-pecuniary damages the exact amount of which is not yet known, but which will be proven at trial. The amount of the damages resulting from the death of MELISSA MARSHALL exceeds the minimum jurisdictional limit of this Court.

1 WHEREFORE, Plaintiff JONATHAN MARSHALL requests judgment against Defendants,
2 and each of them, for compensatory and punitive damages, for costs, for prejudgment interest from
3 the date of death on all liquidated damages, and for such other and further relief as the Court deems
4 just and proper.

5 Respectfully submitted this 1st day of April, 2016.

6 LAW OFFICE OF CARTER MOREY

7 
8
9 Carter Morey
10 110 S. Church Ave., Suite 2170
11 Tucson, Arizona 85701
12 Rec@cartermorey.com
13 (520) 792-4330
14 Attorney for Plaintiff
15
16
17
18
19
20
21
22
23
24
25
26
27
28